



**STATE OF ILLINOIS
TORTURE INQUIRY AND RELIEF COMMISSION REGULAR MEETING
December 17, 2019, 3:00 p.m.**

James R. Thompson Center
100 W. Randolph St., Meeting Room 9-301
Chicago, Illinois 60601

MINUTES

PRESENT:

Commissioners Present

Alternate Chairwoman Kathleen Pantle
Commissioner Robert Loeb
Commissioner Marilyn Baldwin
Commissioner James Mullenix
Commissioner Barry Miller
Commissioner Steven Miller
Commissioner Stephen Thurston
Alternate Commissioner Autry Phillips
Alternate Commissioner Craig Futterman

Commissioners Absent

Commissioner Tim Touhy

Staff on dais

Rob Olmstead (Executive Director)
Michelle Jenkins (Staff Attorney)

Staff in Audience

DeAndrea Brown (Administrative Assistant)

I. Call to Order/Members Present

On December 17, 2019, at approximately 3:00 p.m., the meeting of the Illinois Torture Inquiry and Relief Commission (TIRC or Commission) was called to order. A quorum was established consisting of the following: Commissioners and Alternate Commissioners: Pantle, Loeb, Baldwin, Mullenix, Futterman, Barry Miller, Steven Miller, Phillips and Thurston.

II. Approval of Minutes

Chair Pantle called for a motion to approve the draft minutes of the October 16, 2019, meeting. A motion was made by Commissioner Baldwin and seconded by Commissioner Loeb to approve the minutes as written. The minutes were unanimously approved by voice vote.

III. Executive Director's Report

Executive Director Olmstead welcomed DeAndrea Brown, Administrative Assistant back to TIRC as an employee. Olmstead reported that the Commission currently has 534 claims pending. He informed Commissioners that the budget request submitted for the 2020 fiscal year would allow TIRC two more permanent attorney positions, five temporary attorney positions and a permanent paralegal position. This would bring the TIRC budget to just under \$1 million dollars. Olmstead reported that the budget request was done after the former grant/staff attorney investigated many grant opportunities and found TIRC to be ineligible for many of them.

Director Olmstead reported that he and the Alternate Chair Pantle had conferred on ways to use current resources more effectively, and are in the process of putting those measures in to place. He reported that hiring a contracted employee to retrieve Cook County Court records for TIRC, has been among the accomplished efficient changes. What used to take TIRC months now takes about a week or two in most instances. Olmstead stated his belief of offering a small stipend to claimant attorneys will eliminate the difficulty in recruiting volunteer attorneys for claimants.

Director Olmstead reported that he was updating TIRC operational procedures for attorneys to follow which should allow them the ability to get acclimated quickly. He emphasized that the budget request is just that: a request and there is no guarantee it will be approved by the legislature.

Olmstead informed Commissioners that TIRC is still awaiting approval from the governor's office to refill the staff/grant attorney position vacated by Samuel Cardick. He stated that he had recently spoke to TIRC's Governor's liaison and she indicated that she would have information soon.

Olmstead asked if there were any questions. There were none.

IV. Chief Financial Officer's Report

Due to Dr. Ewa's absence, the agenda item was stricken.

V. Claims

1) Hatch, Jesse (2011.026-H)

Executive Director Robert Olmstead informed Commissioners that he had no substantive involvement in the claim of Jesse Hatch due to the claimant previously suing the Commission. Hatch alleged discrimination over the length of time it was taking for TIRC investigation and resolution of his claim. As Executive Director, Olmstead was named defendant of the lawsuit. For these reasons, Olmstead recused himself from Mr. Hatch's claim.

Commissioner Barry Miller, who had also been named in the Hatch lawsuit, also recused himself from

the case.

Staff Attorney Michelle Jenkins noted for the record that victim family members were notified and were present. She also informed Commissioners that representatives of Hatch's family were present, and both families were informed of the procedures for comments.

Jenkins informed Commissioners that Hatch submitted a claim form with TIRC June 2011, alleging that Det. Gerald Corless and Investigating Officer Dignan tortured him. He alleged having been kicked in the groin, beaten with fists while handcuffed, and being struck in the head. Hatch alleged that Officer Dignan conducted a mock execution with a gun and allowed Hatch to be kicked and beaten by a victim's son while handcuffed. Jenkins reviewed the nature of the underlying crime involving the armed robbery and murder of Robert Magoon. Hatch was arrested on August 5, 1980 and transported to District 4 where he was held for an estimated 45 minutes, then transported to Area 2 headquarters where he was interviewed. Jenkins stated that officers also interviewed Marilyn Green, Constantine Westry, Clifton Williams, and Debra Westry. Hatch gave a statement to ASA Patrick J. Calihan in the presence of Officer Corless, supporting an aggravated battery charge; that was later upgraded to a homicide/ murder charge after the death of Robert Magoon on August 6, 1980. Jenkins informed Commissioners that Hatch was significantly vocal about torture during his voir dire, pre-trial, bench trial, appellate, and post-conviction proceedings, but he did not testify in any of those proceedings. Jenkins stated that Hatch initially lodged his claims of torture during his motion to suppress and repeated the same claims in his later post-conviction filings, trial, complaints to IPRA, and TIRC.

Jenkins informed Commissioners that TIRC conducted two interviews with Hatch. The first interview was conducted with former Executive Director, Dave Thomas on July 24, 2013. The second interview was conducted on June 18, 2019. Jenkins stated that Hatch remained consistent between the two interviews and his written re-counts of his torture allegations although he had elaborated some of the details of allegations.

Jenkins found a few things compelling, such as Hatch's need to file a Pro Se Amended Motion to Suppress. Jenkins informed Commissioners that TIRC staff served a subpoena to Cermak Medical Records on behalf of Hatch, which was unsuccessful. She stated that Hatch provided medical records to TIRC that confirmed a groin injury consistent with the alleged groin injury on in his TIRC claim. She also informed Commissioners that TIRC staff interviewed Hatch's appellate attorney, Attorney Doherty, who confirmed and recalled Hatch communicating being tortured at the hands of Chicago Police. Jenkins also reviewed misconduct allegations of the officers accused. Jenkins informed Commissioners that a commutation offer was presented to Hatch by the Cook County State's Attorney's Office but rejected. Jenkins stated that TIRC Private Investigator, David Hodapp, conducted an interview with Marilyn Green on November 14, 2019 and her statement given in 1981 remained consistent.

For these reasons, Jenkins recommended the commission to refer the claim of Jesse Hatch to the Circuit Court for judicial review.

Chair Pantle opened the floor for discussion. Commissioner Loeb requested further information on the States Attorney commutation offer. Jenkins stated that details of the offer were not completely clear, but she said Hatch stated he rejected the offer because he did not want the guilty plea on his record. Commissioner Baldwin asked if the commutation offer was individually offered or amongst other defendants. Jenkins stated that it was an individual offer. Commissioner Mullenix asked if Jenkins was aware of the specific person who offered the commutation to Hatch. Jenkins was unaware.

Commissioner Mullenix asked Jenkins to expound on the medical record received by Hatch. Jenkins explained that Hatch requested a medical examination and the exam showed trauma and tenderness to the groin area. Commissioner Futterman followed up asking if the tenderness found was 23 years after the alleged torture, or immediately after alleged torture. Jenkins stated the exam was conducted in 2013. Commissioners continued discussion about medical records. Chair Pantle asked whether Commissioners had any more questions or comments. There were none.

Chair Pantle invited victim family members to address Commissioners. Terry Magoon read a statement describing his father's life and character. He urged the Commission not to refer the claim to court. Chair Pantle thanked him for his comments. Steven Magoon and Robert Magoon Jr., sons of the victim, mentioned memories of their father's life and also urged the commission not to refer the claim to court. Chair Pantle thanked them for their comments.

Chair Pantle invited family members of Hatch to address the Commission. Adrien Green, the daughter of Jesse Hatch made comments about her father and urged the Commission to refer his claim to court. Chair Pantle thanked her for her comments. Dr. Nicole Lofton, the daughter of Hatch also addressed Commissioners. Lofton informed Commissioners that she had a copy of the commutation offer. Commissioner Loeb asked whether there was a timeframe to the commutation. Lofton stated that there were provisions to the commutation. Chair Pantle thanked her for her comments. Hausey Coleman, the nephew of Jesse Hatch addressed Commissioners. He noted that he had served in the U.S. Army the past 30 years and it was influenced by Hatch who served in the Marines. Coleman spoke highly of his uncles' character. Chair Pantle thanked him for his comments.

Jeanette Samuels, the attorney representing Hatch in his TIRC claim, addressed Commissioners. Samuels informed Commissioners that she has represented two people who have received commutation offers from the State's Attorney's office, with Jesse Hatch being one. She informed Commissioners that she did see the letter. Commissioner Baldwin asked if it was her recommendation to take the commutation. Samuels stated Hatch chose to fight for his beliefs.

Chair Pantle briefly explained the process of what happens to a claim once referred. Commissioner Baldwin made a motion to defer the claim for further investigation of the commutation offer. Commissioner Steven Miller seconded. Commissioners Pantle, Loeb, Thurston, Futterman, Phillips, Baldwin, S. Miller and Mullenix voted unanimously to table the claim for further investigation. Commissioner Barry Miller abstained from voting due to his recusal.

2) Makiel, Daniel (2011.026-M)

Executive Director Rob Olmstead informed Commissioners that Daniel Makiel was convicted of the October 19, 1988, robbery and murder of Katherine Hoch, an attendant at a Calumet City gas station. Makiel named Todd Hlinko as the person who had been tortured by an Illinois State Police officer and a Calumet City investigator. Olmstead noted that while the Commission does not condone police misconduct, Commissioners were without jurisdiction to consider the claim of Makiel. Olmstead stated that the current jurisdiction only allows for Commissioners to investigate claims in which the claimant is alleging torture of himself. Olmstead informed Commissioners that Makiel acknowledged in writing that he had not been tortured. Olmstead urged the Commission to summarily dismiss the claim for the lack of jurisdiction. Commissioners then voted unanimously to summarily dismiss the claim.

3) Hlinko, Todd (2019.676-H)

Director Olmstead noted that claimant Todd Hlinko was the co-defendant of Mr. Daniel Makiel. Olmstead stated that Daniel Makiel filed a claim form naming Todd Hlinko as the person who had been tortured. Olmstead noted that court records confirm that Mr. Hlinko was not convicted of the crime for which torture is claimed. Olmstead stated that TIRC Act limits this Commission's jurisdiction to those instances in which a defendant claims he was tortured into confessing and that confession was used against the claimant to obtain the claimant's conviction. Olmstead recommended that claim to be summarily dismissed for the lack of jurisdiction. Commissioners unanimously voted to summarily dismiss the claim.

4) Broadwater, Tremmel (2019.672-B)

Director Olmstead noted that Mr. Broadwater alleged he was tortured into making a grand jury statement against other men who were convicted of the 1989 murder and robbery of gas station attendant Cleotha Adams. Olmstead informed Commissioners that Tremmel Broadwater was not charged nor convicted of the crime and therefore his claim did not qualify as a "claim of torture" as defined by the TIRC Act. Olmstead noted that the Commission is without jurisdiction to investigate his claim. Olmstead recommended the Commission to summarily dismiss the claim of Mr. Tremmel Broadwater due to the lack of jurisdiction. Commissioners then voted unanimously to summarily dismiss the claim.

VI. Setting Regular Meeting Dates for 2020

Commissioners set the following regular meeting dates for 2020:

February 19, 2020
April 22, 2020
June 17, 2020
August 19, 2020
October 21, 2020
December 16, 2020

Commissioner Thurston motioned to approve the dates. Mullenix seconded. Commissioners unanimously voted to approve the dates.

VII. City of Chicago v. FOP (16-CH-9793) (Apel No. 1-17-2907)

Executive Director Robert Olmstead informed Commissioners of the ongoing legal battle between the Fraternal Order of Police and the City of Chicago. Olmstead briefly informed commissioners of the issues revolving around the FOP's contract that calls for all misconduct investigation files to be destroyed after five years. Olmstead noted that these records were vital to TIRC's work. Olmstead stated that in almost every case, TIRC reviews the allegation history against accused officers. Olmstead and the chair agreed that it would be useful to add TIRC's perspective to the Supreme Court's deliberations in the form of an amicus brief or "friend-of-the-court" submission. Olmstead mentioned the importance of the state's highest Court being made aware of TIRC's perspective. Olmstead asked for a vote approving TIRC staff filing a written request with the Attorney General to file an amicus

brief on TIRC's behalf seeking preservation of these documents. Olmstead stated he would answer any questions Commissioners had.

Commissioners briefly discussed Olmstead's recommendation. Chair Pantle took a voice vote on the motion that the Commission request the Attorney General approve the filing of an amicus brief on TIRC's behalf in this matter. Commissioners unanimously vote to file for an amicus brief.

VIII. Public Comment

The chair called for public comments.

Ted Pearson of the Chicago Alliance Against Racist and Political Oppression thanked the Commission for its considerations. He commented that the TIRC Act's narrow jurisdictional requirements were "unfair." Chair Pantle thanked him for his comments.

IX. Executive Session

The chair called for a motion to close the meeting to review past closed-session minutes. Commissioner Mullenix so moved and Commissioner Loeb seconded the motion. Pursuant to the Open Meetings Act (5ILCS 120/2(c)(21)) and 2.06(d), the Commissioners closed the meeting, and reconvened in open session approximately five minutes later.

X. Final Action on Closed-Session Matters

Chair Pantle called for a motion for continued need of confidentiality of all currently unreleased closed session minutes except a portion of September 16, 2015 minutes and the entirety of the February 22, 2019 minutes, which would be released. Commissioner Futterman so moved and Commissioner Mullenix seconded the motion. Barry Miller abstained from voting on those minutes taken during the period he was executive director. The motion was approved on voice vote.

VIII. Adjournment

Commissioner Loeb moved to adjourn; Commissioner Mullenix seconded. The commission voted unanimously to adjourn.